

MINUTES
LEGISLATIVE GOVERNMENT OVERSIGHT COMMITTEE
December 17, 2007

The Legislative Government Oversight Committee met December 17, 2007 in the Supreme Court Chamber at the Capitol. Senator Tom Courtney, Chair, called the meeting to order at 11:08 a.m. Other members present were:

Senator Michael Connolly, VC
Senator Pat Ward, RM
Senator Becky Schmitz

Representative Wayne Ford, VC
Representative Ralph Watts, RM
Representative Clel Baudler
Representative Steven Olson
Representative Kurt Swaim
Representative Jodi Tymeson
Representative Wes Whitead

MINUTES

Senator Courtney made a motion to approve the minutes from the previous meeting. No changes were noted. The Committee approved the minutes from the October 29 and 30, 2007 meeting.

OVERVIEW

The primary focus of the meeting concerned an update regarding the Grants Enterprise Management System (GEMS), a discussion of veteran's affairs issues and interactions between veteran's affairs officials at the State and local level, and an examination of the requirements for and accountability of 501(c)(3) organizations doing business in this State.

GEMS UPDATE

Ms. Kathie Mabie, Iowa Grants Management Coordinator, Department of Management, summarized recent activities relating to GEMS, including sponsorship of eight two-day Grant Writer Workshops on community college campuses across the State, implementation of and participation in a State Agency Technical Assistance Project to assist State agencies with the grant identification and writing process, contracting with a vendor identified as eCivis to provide grant search tools to State agencies, and implementation of a pilot project to establish an Electronic Grant Notification Storefront and Grant Management System designed to simplify the grant identification and application process for State customers and provide a unified grant management approach within State government. Ms. Mabie also introduced activity participants or organizers who provided positive input regarding the value of the various initiatives. They included Mr. LT Smith, LT and J Consulting, Ms. Diann Wilder, Warden, Mitchellville Correctional Facility, Ms. Karen Misjak, Director, Iowa College Student Aid Commission, Mr. Todd McGee, Manager, Workforce Shortage Initiatives, Workforce Development, and Ms. Kristin Honz, Senior Program Officer, Iowa Commission on Volunteer Services. Ms. Mabie additionally related her surprise at the large amount of time reported by State agencies when engaged in the grant identification and application process, that Iowa needs to be in a competitive position in qualifying for and receiving federal grants, and that amounts previously appropriated for pilot project funding have been largely expended and additional funding is accordingly needed to continue the development of GEMS initiatives.

IOWA DEPARTMENT OF VETERANS AFFAIRS

Mr. Patrick Palmersheim, Executive Director, Iowa Department of Veterans Affairs, accompanied by Mr. Steve Mulcahy, Chairperson, Iowa Commission On Veterans Affairs, and Mr. Steven Young, Director, Iowa Veterans Cemetery, provided input regarding efforts to increase the level of federal veterans benefits available in the State and assist in the process of identifying veterans. Mr. Palmersheim indicated that substantial progress has been achieved in increasing benefit levels in the past five years, noted official claims eligibility recognition of the Department at the federal level, and described communications challenges involving inconsistent newsletter distribution to county offices and the regional versus local routing of veteran requests for assistance.

Problems and frustration surrounding implementation of a newly established county grant program received particular emphasis, with slow adoption of administrative rules, inconsistent interpretation of program requirements, lack of veterans affairs offices or officials to apply for or administer the grants in certain counties, inability of some counties to supply the matching requirement, inappropriate utilization of grant funds, lack of uniformity in application forms, dissention involving county commissions, and conflicts with county boards of supervisors or county auditors regarding control of grant funds cited. Ms. Patty Meyer, Buchanan County Veterans Affairs Office, and Ms. Elizabeth Ledvina, Tama County Veterans Affairs Office, underscored these concerns from the local county perspective. The situation was described as improving, and a legislative request to address some of the issues was reported to be forthcoming.

Additional areas of discussion included comments and questions received from some local veterans or veterans offices regarding the funding and location of the new veterans cemetery, the need for improved communication with the Commission on Veterans Affairs regarding development of proposed legislation, lack of attention focused on older veterans groups, and the need for an assessment of how veterans services personnel can best be utilized.

501(C)(3) STATUS AND NONPROFIT CORPORATIONS

Secretary of State's Office

Secretary of State Michael Mauro distributed information summarizing the Office's function in serving as the repository for Internal Revenue Code Section 501(c)(3) applications for businesses registering to conduct business in this State as a nonprofit, tax-exempt entity. Mr. Mauro identified the basic types of nonprofit corporations, highlighted information regarding how a nonprofit organization is formed, and supplied a list of frequently asked questions and relevant Iowa Code sections regarding nonprofit organizations. He emphasized that the Office serves in an administrative capacity with no actual regulatory or investigative authority, and that it serves as an information resource for businesses seeking nonprofit status.

Iowa Department of Revenue

Mr. Jim McNulty, Program Manager, Audit Services and Tax Policy Section for the Department, accompanied by Ms. Victoria Daniels, Supervisor, Audit Services and Tax Policy Section, addressed income and sales tax and revenue implications of 501(c)(3) organizations. Mr. McNulty indicated that no annual reporting requirements are applicable to charitable organizations, and that 501(c)(3) organizations automatically exempt from tax include charitable, religious, and educational organizations. He also indicated that such organizations must file Form 990 with the Internal Revenue Service (IRS), must set reasonable compensation limits based on comparable survey data and are subject to an excise tax if compensation is determined excessive, and that nonprofits with unrelated business income must pay tax on that income in excess of specified levels. Mr. McNulty stated that the Department has no current expertise regarding audits of nonprofits and relies on IRS determinations of nonprofit status. Ms. Daniels outlined sales tax applications relating both to sales to and by nonprofit organizations. Committee discussion

included a primary focus for concern in relation to relatively large nonprofit organizations with significant unrelated business income, regulatory authority residing either with the department or with the Attorney General's Office, and whether there is current ability to identify or detect a nonprofit entity transforming itself into what would constitute a taxable status.

Iowa Nonprofit Resource Center

Mr. Willard Boyd, Founder, Professor of Law, and President Emeritus, University of Iowa, stated that he has worked closely with Senator Grassley regarding the Senator's examination of nonprofit business entities, and cautioned that potential abuses must be balanced with recognizing the vital public purpose and substantial good which such organizations accomplish for the benefit of citizens and local communities. Professor Boyd summarized recommendations developed based on The Governor's Task Force on the Role of Charitable Nonprofit Organizations in Iowa, including the development of an Iowa Register of Accountability, indicated that most 501(c)(3) organizations in this State do not have income in excess of \$25,000, that most 501(c)(3) abuses can be characterized as errors of omission rather than of commission, and that the State ranks 4th nationally in volunteerism rates but 31st in terms of benefits accruing to citizens resulting from those efforts. He further summarized a set of Principles and Practices For Charitable Nonprofit Excellence derived from the Task Force recommendations, specifically commenting on a duty of care in maintaining transparency, duty of loyalty regarding disclosure of conflicts of interest, the need for financial audits varying in scale based on the amount of gross revenue realized, and fraud and embezzlement concerns prompting the need for division of financial responsibility, whistleblower protection and record retention policies. Committee discussion included a request for specific statutory language - or other legal recommendations to tighten up nonprofit regulation, including mandatory audits, as well as suggestions to possibly strengthen the AG's office ability in oversight of nonprofits. Also, Professor Boyd was asked provide suggestions of how to prevent abuses that occur from errors of omission.

Iowa Health Systems (IHS)

Mr. Duncan Gallagher, Executive Vice President and Chief Operating Officer accompanied by Ms. Sabra Rosener, Director of Government Relations, discussed the formation and expansion of IHS from its inception as a merger between Iowa Methodist Medical Center and Lutheran Hospital in Des Moines to its current status as the largest health system in Iowa and western Illinois, and its operation as a 501(c)(3) organization. Mr. Gallagher stated that IHS was formed and expanded in order to achieve economies of scale in patient care and medical supplier negotiation, that it complied with a request for commentary on a discussion draft related to proposed nonprofit hospital reforms by the Senate Finance Committee and testified before the Committee, that it takes its status as a nonprofit organization very seriously and closely tracks its provision of indigent care, that its community benefit programs can be viewed as outweighing the tax exempt benefits of its 501(c)(3) status, and that multiple parties at the State and federal level actively monitor its operations and those of similar organizations. Committee discussion primarily focused upon the existence of for-profit subsidiary organizations, the composition of IHS boards and related salary and bonus levels for board members and IHS executives, and applicable revenue and asset value figures.

Iowa Foundation for Medical Care

Mr. Donald Lovasz, Chief Executive Officer, Andi Dykstra, Senior Director, Medicaid; and Kim Downs, Senior Director, Quality Improvement Organization explained that the Foundation is a 501(c)(6) nonprofit organization retained by medical care providers to furnish services in health care quality improvement and medical information management, with the ultimate goal of reducing patient care expenses. He indicated that the organization has formed for-profit subsidiary and charitable organizations, as well as a foundation for quality care in the state of Illinois, that it holds the Medicare quality improvement organizations contract for Iowa, and that it administers a number

of programs including programs relating to care management and member health education. Committee discussion included clarification that the organization is voluntarily contracted with by medical services providers seeking quality improvement rather than regulatory in nature, performance of an annual audit and cost review, and questions regarding the composition of its boards, and related salary and bonus levels for board members and organization executives.

American College Testing (ACT), Inc

Mr. Tom Goedken, Chief Financial Officer and Treasurer, ACT, discussed ACT's status as a 501(c)(3) organization and emphasized its mission-based approach in offering a variety of program and services in an effort to assist individuals in achieving education and workplace success. Mr. Goedken highlighted the company's fund-raising activities and related work with local and national charities and identified a number of best practices principles the company adheres to. He also reviewed compensation levels and policies, indicating that comparisons are difficult, that the Education Testing Service would probably be the closest similar organization, that ACT has chosen to compensate its Board of Directors, that compensation policies are subject to annual review, and that the most recent IRS audit conducted in 2000 verified ACT's tax-exempt status. Mr. Goedken stated that ACT supports actions to increase the accountability of tax-exempt organizations and plans to continue implementing best practices recommendations. Committee discussion included the extent to which full public disclosure of nonprofit organization revenues and employee compensation amounts exists, relatively high compensation levels observed by committee members for ACT, and continued inquiry regarding board composition, specific salary and bonus information, and asset and revenue figures.

United Way of Central Iowa

Mr. John Aschenbrenner, Chairperson of the United Way of Central Iowa Board of Directors, accompanied by Ms. Shannon Cofield, President of United Way of Iowa, discussed the organization's role as a pass-through entity raising funds for charitable organizations and agencies but further as playing a strategic leadership role in ensuring community needs are being met. He indicated that United Way of Central Iowa is currently the top per capita United Way agency, that board members are not compensated, and that amounts held in reserve correspond to approximately three months worth of operating expenses. Ms. Cofield indicated that administrative costs for the organization are relatively low, that United Way of Central Iowa has hosted forums relating to implementation of the Principles and Practices For Charitable Nonprofit Excellence with other nonprofit organizations, and that the organization received a request for assistance by Senator Grassley's office at the start of its investigation of nonprofits. Committee discussion included inquiry regarding executive compensation and bonus levels, and comments that the organization could serve as a positive example of conducting business as a 501(c)(3) organization.

NEXT MEETING

The Committee is scheduled to meet January 23, 2008. Location in the Statehouse to be announced. The meeting will commence at 10:00 a.m.

ACTION ITEMS – FOLLOW UP

Several questions were asked of the presenters. LSA Staff will follow up with all the specific questions for the nonprofit corporations, Dept. of Revenue, GEMS, and Professor Boyd.

ADJOURNED

Senator Connolly adjourned the meeting at 5:28 p.m.